

**STATE OF MICHIGAN**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

**In the matter of**

**XXXXXX**

**Petitioner**

**v**

**File No. 120684-001**

**Guardian Life Insurance Company  
of America**

**Respondent**

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**Issued and entered  
this \_14th\_ day of September 2011  
by R. Kevin Clinton  
Commissioner**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On April 19, 2011, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* On April 26, 2011, after a preliminary review of the material submitted the Commissioner accepted the request.

The Commissioner notified the Guardian Life Insurance Company of America (Guardian) of the external review and requested the information it used to make its final adverse determination. The Commissioner received Guardian's response on May 4, 2011.

Because the case involves an issue of dental necessity, the matter was assigned to an independent review organization which completed its review and sent its recommendation to the Commissioner on May 10, 2011.

**II. FACTUAL BACKGROUND**

The Petitioner is covered under a group dental plan underwritten by Guardian. Her benefits are described in a document called "Your Group Insurance Plan Benefits" (the certificate).

On October 7, 2010, the Petitioner's dentist prepared tooth #30 for the placement of a crown by building up its core. Guardian denied coverage for the buildup, deciding that it was not dentally necessary.

The Petitioner appealed Guardian's denial of coverage through its internal grievance process. Guardian upheld its denial and issued a final adverse determination dated March 26, 2011.

### **III. ISSUE**

Did Guardian correctly deny coverage for the crown buildup?

### **IV. ANALYSIS**

#### Petitioner's Argument

The Petitioner's dentist determined, due to severe decay and insufficient tooth structure, that the Petitioner needed a crown buildup on tooth # 30. The dentist explained the need for the buildup in a "To Whom it May Concern" letter dated April 13, 2011:

[The Petitioner] presented with an occlusal-buccal amalgam on tooth #30 that capped the buccal cusps. There was recurrent decay on the buccal portion of the restoration that extended cervically down to the gingiva which is not evident on the preoperative radiograph. After removing the amalgam and decay a core build-up was necessary for retention of the definitive crown. . . .

#### Respondent's Argument

In its March 26, 2011, final adverse determination, Guardian gave its reasons for denying coverage:

. . . A licensed dentist has reviewed the clinical information submitted and determined that this tooth appears to have sufficient tooth structure remaining to provide adequate support and retention for an inlay, onlay or crown. . . .

#### Commissioner's Review

Guardian covers major restorative services that meet its criteria. The certificate describes the following regarding crown buildups (p. 82):

Crowns, inlays, onlays, labial veneers, and crown buildups are covered only when needed because of decay or injury, and only when the tooth

cannot be restored with amalgam or composite filling material. Post and cores are covered only when needed due to decay or injury. Allowance includes insulating bases, temporary or provisional restorations and associated gingival involvement. Limited to permanent teeth only. . . .

\* \* \*

Posts and buildups – only when done in conjunction with a covered unit of crown or bridge and only when necessitated by substantial loss of natural tooth structure.

\* \* \*

The question of whether the crown buildup for tooth #30 was dentally necessary for the treatment of Petitioner's condition was submitted to an independent review organization (IRO) for analysis as required by Section 11(6) of the Patient's Right to Independent Review Act, MCL 550.1911(6). The IRO reviewer is licensed in general dentistry, a member of the American Dental Association, a member of the American Academy of Craniofacial Pain, and in active practice. The IRO report included the following analysis and conclusions:

**Clinical Rationale for the Decision:**

Inspection of the pre and post operative radiographs supplied by the provider display the following information: The pre-operative radiograph appears to display sufficient tooth structure for the placement of a crown; however, the provider states that the enrollee "presented with both buccal cusps undermined with decay." This would correspond with inspection of the post-operative radiograph which indicates that a significant amount of material has been added to the lower half of the tooth, especially on the mesio-buccal root area. The mesial and distal crown margins are clearly evident on the post-operative radiograph. Both margins are properly placed, just below the tooth contact points into embrasure areas. It can therefore be ascertained that this area was compromised and required the placement of additional support material to provide sufficient "retentive form" for crown stability and retention.

\* \* \*

Per the physical evidence according to the radiographs, buildup was dentally necessary for a proper crown restoration. The standard of care in the dental community is to perform core buildup and full crown restoration for tooth #30 in this enrollee's case.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, a recommendation from the IRO is afforded deference by the Commissioner. In a decision to uphold or reverse an adverse determination, the Commissioner must cite "the

principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO's analysis is based on experience, expertise and professional judgment. The Commissioner can discern no reason why the IRO's recommendation should be rejected in the present case.

The Commissioner accepts the IRO reviewer's conclusion and finds that Guardian's denial of the crown buildup was incorrect under the terms of the certificate.

#### **V. ORDER**

The Commissioner reverses Guardian Life Insurance Company's March 26, 2011, final adverse determination. Guardian is required to provide coverage for the crown buildup on tooth #30 performed on October 7, 2010. Guardian shall provide this coverage within 60 days of the date of this Order and shall, within seven (7) days of providing coverage, furnish the Commissioner with proof it has implemented this Order.

To enforce this Order, the Petitioner may report any complaint regarding implementation to the Office of Financial and Insurance Regulation, Health Plans Division, toll free (877) 999-6442.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

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R. Kevin Clinton  
Commissioner